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CLERK, U.S. DISTRICT COURT
ANCHORAGE, A.K.

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7 THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ALASKA AT ANCHORAGE

9 DARRYL BONNER and)
10 SCOTT KOHLHAAS)

11 Plaintiffs,)

12 vs.)

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

13 STATE OF ALASKA and)
14 JOSIE BAHNKE, in her Official)
15 Capacity as Director of the)
Division of Elections)

16 Defendants.)

U.S. District No. 3:17-cv-_____

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18 DARRYL BONNER and SCOTT KOHLHAAS, plaintiffs, complain against the
19 STATE OF ALASKA, and JOSIE BAHNKE, in her official capacity as Director of the
20 Division of Elections, defendants, as follows:

21 1. **JURISDICTION.** This case presents a claim by the plaintiffs against the State
22 of Alaska, Division of Elections, that the State residency requirements for the circulators
23 of initiative, referendum, and recall petitions violate the rights of the circulators and
24 signers under the First and Fourteenth Amendment to the Constitution of the United
25 States, and 42 U.S.C. §1983. This Court has jurisdiction of this case under 28 U.S.C.
26 §1343 (deprivation of civil rights) and 28 U.S.C. §1331 (general federal question
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jurisdiction).

2. **PARTIES.** Darryl Bonner is a citizen of the United States, over 18 years old, and is not a resident of the State of Alaska. Mr. Bonner intends to come to Alaska as a non-resident, to circulate and gather signatures on Initiative Petitions 17QHIA, 17HCAK, and 17ACGA, as soon as any or all of these petitions are approved for circulation. Mr. Bonner also intends to circulate Initiative Petition 17FSH2, or any successor to that petition. Under the laws of Alaska, the signatures he gathers will be rejected by the State because he is a non-resident.

Scott Kohlhaas is a resident of the State of Alaska, and is the petition manager and coordinator of circulators for Initiative Petitions 17QHIA, 17 HCAK, 17ACGA, and 17FSH2. Because of the lack of resident circulators in the State of Alaska, and the necessity of a winter collection effort, Mr. Kohlhaas needs to obtain the assistance of non-resident circulators in order the meeting the filing deadline of the commencement of the 2018 Alaska Legislative session in order the get these propositions on the ballot for the 2018 Alaska general election. (See AS 15.45.190)

Josie Bahnke is the Director of the State of Alaska, Division of Elections. Under the direction of the Lieutenant Governor, Ms. Bahnke receives initiative, referendum and recall petitions for filing, reviews the validity of the signatures collected in support of the petitions, reviews the qualifications of the circulators, and is required to deny access to the ballot if a petition lacks sufficient valid signatures or the petition or any signature is otherwise is not in compliance with the law of Alaska. Ms. Bahnke is being sued in her official capacity.

3. **APPLICABLE STATUTORY PROVISIONS.** AS 15.45.105 requires that, in order to circulate a petition booklet for initiatives, "a person shall be ... a resident of the

1 state as determined under AS 1.02.020. AS 15.45.130 requires that, before being filed,
2 each petition booklet must be certified by the person who personally circulated the
3 petition booklet, and that the affidavit must state the person signing the affidavit "meets
4 the residency ... qualifications for circulating a petition under AS 15.45.105." AS
5 15.45.130 further provides that the Lieutenant Governor may not count signatures that are
6 not properly certified.
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8 AS 15.45.335(3) and AS 15.45.360(1) impose the same residency requirements for
9 circulating referendum petitions. AS 15.45.575(3) and AS 15.45.600(1) impose the same
10 residence requirements for circulating recall petitions.

11 4. The residency requirements for petition circulators under the Alaska Statutes
12 violate the rights of free speech, political association, and right to petition the
13 government, guaranteed to the plaintiffs and other petition signers and circulators by the
14 First Amendment to the Constitution of the United States, applicable to the defendants
15 through the Fourteenth Amendment.

16 5. The burdens placed on the petition circulators and signers by the Alaska
17 residency requirements are subject to strict scrutiny to determine whether the
18 requirements further a compelling state interest.

19 6. The Alaska residency requirements in fact severely burden the rights of the
20 plaintiffs and other signers and circulators and are not narrowly tailed to serve a
21 compelling state interest. (See, e.g., Nader v. Brewer, 531 F.3d 1028 (9th Cir. 2008))

22 WHEREFORE, Darryl Bonner and Scott Kohlhaas request the following relief:

23 (A) A declaratory judgment that the Alaska residency requirements for petition
24 circulators are in violation of the First Amendment to the United States Constitution,
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26 (B) A permanent injunction prohibiting the defendants from enforcing these
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1 residency requirements for present and future petitions,

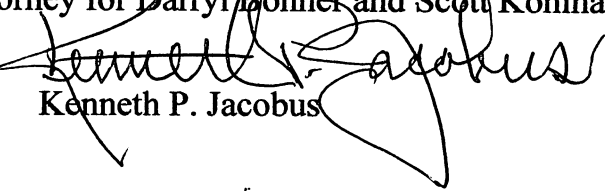
2 (C) A mandatory injunction requiring the defendants to honor all otherwise proper
3 signatures gathered by non-resident circulators,

4 (D) An award of full costs and attorney fees, and

5 (E) Such and further relief as may be just and proper.

6 Dated this 18th day of September, 2017.

7 KENNETH P. JACOBUS, P.C.
8 Attorney for Darryl Bonner and Scott Kohlhaas

9 By 
10 Kenneth P. Jacobus
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